

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

No. CR 08-0730 WHA

v.

IVAN CERNA, *et al.*,

Defendants.

**FURTHER ORDER RE
GENERAL DISCUSSION
OF “VICTIM LIAISONS”**

With respect to the issue of a “victim liaison,” the defense will eventually be given an opportunity to present a further *ex parte* showing on any specific CJA application. Before ruling on any further specific CJA applications, however, the Court is concerned that both sides should have a fair opportunity to be heard on the general issue of whether and under what guidelines any “victim liaison” should be allowed to approach victim witnesses whose family members have been killed and who themselves may be in danger of retaliation.

Although literature on “victim liaisons” does not couch their role as such, there is a legitimate question whether the effect of such a liaison may be to influence the testimony of penalty-phase witnesses. If so, then the government has a right to be heard before any such attempt to influence witness testimony takes place, regardless of whether CJA funds are used. Moreover, given the potential retaliation danger that victim witnesses face, the government has a


1 further legitimate interest in being heard as to witness safety and any precautions that might be
2 advisable to minimize their exposure. Again, this is true regardless of whether CJA funds will be
3 used.

4 After a fair hearing for both sides on the general considerations, the Court will then return
5 to any specific CJA applications on an *ex parte* basis and make private rulings in the usual way,
6 taking into consideration the views expressed in the general discussion. This procedure will not
7 reveal any specific trial strategy by the defense. At most, all that is now on the table for open
8 discussion on March 15 are the general questions in which the government has a legitimate
9 interest in being heard.

10 If defense counsel seek any immediate appellate review, as they suggest, please make sure
11 this order is brought to the attention of the appellate court.

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13 **IT IS SO ORDERED.**

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15 Dated: March 10, 2010.

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18 WILLIAM ALSUP
19 UNITED STATES DISTRICT JUDGE
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